



A Frontier Attorney

AMONG the first attorneys to settle in Medicine Lodge was a young Irishman in after years known all over Kansas as Mike Sutton. At the age of fifteen Mike entered the army, spent two years as a soldier, and when peace came, determined to get an education and study law.

In the early seventies, perhaps 1873 or 1874, he landed in Medicine Lodge and proclaimed himself a lawyer. Business for a lawyer was decidedly scarce and the picking slim. Mike was, however, single and care-free and not disposed to worry over his financial condition. To save laundry bills he washed his single shirt in the clear soft waters of Elm creek and rested under the shade of the plum bushes while the garment dried in the sun. On one occasion the driver of the buckboard, which carried the government mail between Medicine Lodge and Hutchinson, saw a shirt draped over a bush near the crossing and was about to appropriate it, when Mike, concealed in the bushes, yelled at him. "Hi there, let that shirt alone. You have two shirts that I know of. What do you want to rob a man for who only has one? This is no Garden of Eden where a man can run naked like Adam did before he climbed that apple tree!"

Mike formed a partnership with another indigent young lawyer by the name of Whitelaw, who for some inscrutable reason had gotten the notion in his head that there was room for another lawyer in the frontier town.

Somehow the firm got a case that had to be tried at Hutchinson. As the time of trial approached, Mike, for the first time since his settlement in the town, appeared to be somewhat worried. "Jim," said he to his partner, "one of us has got to go to Hutchinson and try that case. I really haven't clothes fitting to appear in court, but you have a pair of overalls nearly new, and a shirt that you haven't been wearing more than six months. You also have a pair of socks and your toes are not sticking out of your shoes. You will have to go and show the court that this firm has some style and dignity."

In 1876 or 1877 Mike decided that the prospects for law business in Medicine Lodge were not encouraging and moved to the wild and woolly town of Dodge, then the end of the great Texas cattle trail, and there he lived until his death about a year ago. He built up a lucrative practice, became recognized as one of the most successful and resourceful lawyers in the state of Kansas and died possessed of a comfortable fortune.

A story is told of the resourcefulness of Mike Sutton in the trial of a law suit. A witness was on the stand whose testimony, unless it could be discounted in some way, would probably knock the bottom out of Mike's case. It looked as if he was up against it when suddenly the thought occurred to him to introduce as a witness an expert on prevarication.

"Buffalo Jones," the well-known hunter and town builder, was sitting in the room, where the case was being tried. "Buffalo Jones will take the stand," said Mike. The case was in justice court.

"Buffalo" had not anticipated being called into the case, but he promptly came forward and was sworn.

"State your name and place of residence," said Mike.

"My name is C. J. Jones. I live in Garden City, Kansas."

"How long have you lived in western Kansas?"

"Thirty years."

"From your experience and observation of men in this western country are you able to tell from the expression of countenance, the manner of speech and the actions of a man whether or not he is a liar?"

"I am," calmly answered Jones.

"You are something of a liar yourself are you not, Mr. Jones?"

"I am," again calmly answered Jones.

"Have you carefully observed the countenance, the manner of speech and the actions of the witness who just left the stand?"

"I have."

"Will you state to the court as an expert on prevarication whether or not this witness is a liar?"

"My judgment as an expert on truth and prevarication is that he is a liar."

"Take the witness," said Mike triumphantly.

It was in vain that the attorney on the other side protested to the justice of the peace that this was an unheard of proceeding, that the books nowhere gave any authority for introducing an expert on prevarication and that Jones had not in any event qualified himself to testify as an expert. The justice knew that Mike Sutton understood his business and decided as follows: "It is the opinion of this court that Mike would introduce no incompetent testimony."

When the West Was Young

By T. A. McNEAL

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A Populist Judge

WHEN the Farmers' Alliance movement swept over Kansas the leaders determined that it was necessary to get control of the courts, and for that purpose Alliance conventions were held in most of the judicial districts to nominate candidates. The convention to nominate a candidate for judge for the district composed of the counties of Harper and Barber, was held at the town of Attica. A tent had to be provided for the reason that there was no building in the little town with sufficient capacity to accommodate half the crowd.

Mrs. Mary Elizabeth Lease was the orator of the day. She was then in her prime and heyday of her popularity. I say without hesitation that of all the women speakers to whom I have ever listened, Mrs. Lease led in oratorical power. She was a woman of striking presence, tall, not exactly handsome, but attractive in appearance. Nature endowed her with a voice of remarkable volume and carrying power. If you had not known that it was a woman speaking, you would not have guessed it from her voice, which was a deep baritone, and yet sweet and clear as the notes of a deep-toned bell. She was giving her impassioned advice to the assembled Alliance delegates to raise less corn and more trouble, and before she had finished, 90 per cent of her audience were ready to follow her advice. If she had suggested that they proceed to hang the nearest banker I think the rope would have been furnished and with some fanatical leaders to direct they would have proceeded to elevate the unfortunate money loaner into the atmosphere. As a curtain-raiser on that occasion, "Iron Jaw Brown" also made the welkin ring for about three-quarters of an hour. Never to my knowledge having seen a "welkin," I am a bit hazy about what is required to make one ring, but I am confident that if there were any welkins around in that vicinity on that occasion they must have rung when "Iron Jaw" turned himself loose.

The Alliance was rather short of lawyers at that time; in fact I think the rules of the order precluded the admission of anyone to membership who made the practice of the law his profession or business. It was not considered necessary, however, to have a lawyer for judge. What they wanted was a man who would sit on the bench and deal out justice without regard to established precedents or the technicalities of the law.

One of the things that Mrs. Lease sought to impress upon the minds of her hearers was that farm mortgages ought to be summarily wiped out. They were, as she dramatically explained, the chains that had been forged by the money power to bind the limbs of the toiling masses.

Living on his claim near Attica, was a blond little

man with long and flowing whiskers, by the name of George Washington McKay. It was claimed that at some time in the past he had attended a course of law lectures in Chicago, but if he had, most of the knowledge of law he may have acquired had evaporated and his last name might have been fittingly changed to Necessity, because he knew no law.

Who suggested to him that he ought to be a candidate for judicial honors I do not know. I think not more than half a dozen of the delegates to the convention had ever heard of him, but his name was sprung on the convention at the psychological moment, and I may say in passing that those were the times when psychological moments counted.

So George W. McKay was nominated for the important office of judge of the district court and triumphantly elected. While at the time of his election he was utterly ignorant of court procedure and hardly possessed even a smattering knowledge of law, it should be said for George W. McKay that he was very far from being a fool. During the eight years he sat upon the bench he acquired a fair knowledge of law and in all cases where his political prejudices did not interfere with his judgment he came to be a fairly good judge.

For a time after he went on the bench the new judge seemed to go on the theory that the supreme court of the state was not entitled to any particular consideration and that he was not subject to its jurisdiction, but after being jolted once or twice he abandoned that idea. During the time he was on the bench he only adhered strictly to one of the theories on which he was elected. He insisted that there should be no personal judgments left over after the sale of land under mortgage foreclosure. He would refuse to confirm the sale unless the sale of the land satisfied the mortgage. Theoretically there seemed to be considerable justice in this, but in practice it worked out mostly to the advantage of the sheriff who received commissions on the amount for which the land sold at sheriff's sale. In Barber County it happened that the sheriff during the time when mortgage foreclosures were most abundant was a Republican who profited to the extent of several hundred dollars by the ruling of the Populist judge.

During his term of office the boundaries of his district were changed and counties of Kingman and Pratt were added. With experience he became more conservative, less radical, and also a much better lawyer. His integrity, so far as I know, was never questioned, and during the latter years of his service on the bench there was little complaint about his rulings or the manner in which he conducted the business of the court.

A Partisan Tombstone

IN THESE days when party ties are so loosened that it is next to impossible to find a man who does not scratch his ticket, it is hard to realize the rigid partisanship of only a third of a century ago. In those old days, the man who scratched his ticket was regarded as a political heretic and traitor to his party. All the party bosses had to do was to see that the ticket was fixed up to their liking and the rank and file could be depended upon to vote 'er straight.

Among the hardy and estimable men who settled in Barber County on the edge of Harper County back in the late seventies or early eighties was Nathaniel Grigsby and his son Elias Grigsby. The names indicate the Puritan strain in the Grigsby blood. If they had lived in the days of Cromwell they would have been followers of that remarkable man who organized an army of religious fanatics, the most dauntless fighters who ever followed a leader in battle.

Born in 1811, when the Civil War broke out, Nathaniel Grigsby, although even then well beyond the military age, promptly joined the colors and together with his son or sons, fought through the war, rising to the rank of second lieutenant. Nathaniel Grigsby was a man of positive convictions, religiously and politically.

He was a Republican without variableness or shadow of turning. To his mind, politically speaking, the Republican party was *sumum bonum*, while the Democratic party was *malum in se*. Whatever there was good in the political acts of the past third of a century, he attributed to the Republican party, and whatever there was of evil to the malign influence of the Democratic organization.

With most men political activity stops with the grave, but old Nathaniel Grigsby, as the weight of years bowed his back and frosts of time silvered his hair, knowing that his years were nearly numbered, devised a plan by which his political opinion might be transmitted to coming generations, carved in imperishable granite, to be read long after his mortal body had returned to the earth from which it came and his spirit had joined the immortals.

He carefully prepared the inscription for his tomb-

stone and exacted the promise that it should be graven on the shaft which marked his grave.

In the quiet graveyard near the little town of Attica lies the body of Nathaniel Grigsby and on the headstone the curious observer may read these words:

"N. Grigsby, 2d Lieu't. Co. G, 10th Indiana Volunteers. Died April 16, 1890. Age 78 years, 6 months and 5 days."

Thru this inscription I wish to enter my dying protest against what is called the Democratic party. I have watched it closely since the days of Jackson and know that all the misfortunes of our nation have come to it through this so-called party of treason.

Below that inscription is the postscript: "This inscription is placed here by the request of the deceased."

Hardly had the clouds fallen on the coffin of old Nathaniel Grigsby before the state of Kansas was shaken by a political upheaval which for the time being destroyed the Democratic party in the state as an organization and reduced the Republican party to a minority in Kansas, the stronghold of its power. If the disembodied spirit of the old veteran was able to view the things of earth from another world he must have viewed with astonishment the political revolution which swept over the state of his adoption and observed the strange political bedfellows resulting.

Had he lived a quarter of a century longer he would have witnessed the passing of the old political order, the loosening of party bonds, and the framing of party platforms so nearly alike in all essentials that with the changing of heads and a few stock phrases, one might have been substituted for the other and each supported with equal enthusiasm. Perhaps the old soldier would have changed with the times, and if so a different inscription would have been carved upon his granite monument.